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10 **UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

11 IN RE INCRETIN-BASED THERAPIES
12 PRODUCTS LIABILITY LITIGATION

13 JAMES SANDKER, INDIVIDUALLY
14 AND AS INTERIM ESTATE
15 REPRESENTATIVE FOR THE ESTATE
16 OF LINDA SANDKER, DECEASED,

17 Plaintiffs,

18 v.

19 MERCK SHARP & DOHME, CORP.,
20 ET AL.

21 Defendants.

3:13-md-02452-AJB-MDD

MDL NO. 2452

Judge: Hon. Anthony J. Battaglia
Magistrate Judge: Mitchell D.
Dembin

**STIPULATION AND JOINT
MOTION TO SUBSTITUTE
PLAINTIFF AND AMEND
CAPTION AND COMPLAINT**

Case No. 13-cv-2381-AJB-MDD

22 WHEREAS counsel for Plaintiff represents as follows:

- 23 1. Plaintiff filed the present action on October 4, 2013.
- 24 2. On November 1, 2014, Plaintiff died of complications from
- 25 pancreatic cancer.
- 26 3. On August 14, 2015, Plaintiff's counsel filed a Suggestion of
- 27 Death under Rule 25(a)(1) of the Federal Rules of Civil Procedure.
- 28 4. James Sandker seeks appointment as the Interim Estate

1 Representative pursuant to the Declaration submitted with this motion by
2 Mr. Sandker, attached as Exhibit A, and this Court's Order Granting Joint
3 Motion Related to Filings by Derivative Plaintiffs of August 14, 2014.

4 IT IS HEREBY STIPULATED by the parties that James Sandker may
5 be substituted as the plaintiff under Rule 25(a)(1) of the Federal Rules of
6 Civil Procedure, subject to the reservation of all rights and defenses by
7 defendant. The parties stipulate further that the caption of the case be
8 amended as follows: *JAMES SANDKER, INDIVIDUALLY AND AS*
9 *INTERIM ESTATE REPRESENTATIVE OF THE ESTATE OF LINDA*
10 *SANDKER, DECEASED, Plaintiff, v. MERCK SHARP & DOHME CORP.,*
11 *ET AL., Defendants;* and the complaint may be amended to conform to the
12 short form complaint format as well as include wrongful death and
13 survival claims, as shown in the attached Exhibit B.

14 Dated: September 16, 2015 Respectfully submitted,
15 **TORHOERMAN LAW LLC**

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17 /s/ Steven D. Davis

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3 Dated: September 14, 2015 /s/ James Bierman
4 James Bierman
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9 Telephone: (202) 434-5000
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11 Attorneys for Defendant Merck Sharp & Dohme
12 Corp.

13 Dated: September 16, 2015 /s/ Amy Laurendeau
14 Amy J Laurendeau
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21 Attorneys for Defendants Amylin
22 Pharmaceuticals, LLC and Eli Lilly and
23 Company, a corporation.
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1 **CERTIFICATION OF ACCEPTANCE OF CONTENT BY ALL PARTIES**

2 I, Steven D. Davis, declare under penalty of perjury and pursuant to
3 the laws of California and the United States that I have in my possession e-
4 mail correspondence from defense counsel dated September 14, 2015 and
5 September 16, 2015 that the content of this Joint Motion and Stipulation is
6 acceptable to all persons required to sign it.

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8 /s/ Steven D. Davis
 Steven D. Davis

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12 **CERTIFICATE OF SERVICE**

13 The undersigned hereby certifies that a true and accurate copy of the
14 foregoing was served upon all counsel of record via the Court's CM/ECF
15 Filing System this 16th day of September, 2015.

16 /s/ Steven D. Davis
17 Steven D. Davis